IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRI. REVISION APPLICATION NO. 112 OF 1995

1. Smt. ASHA M. GUPTA & Anr. ..Applicants.

V/s.

Municipal Corporation of Gr.Bombay & Anr. ..Respondents.

WITH

CRI. REVISION APPLICATION NO. 114 OF 1995

Smt. Asha M. Gupta & Anr. ..Applicants.

V/s.

Municipal Corporation of Gr. Bombay and Anr. ..Respondents.

Shri M.G. Gupta for the Applicants.
Mrs. T.H. Puranik for Respondent No.1.
Shri V.B.Konde-Deshmukh,APP for Respondent No.2-State.

CORAM : A.M.KHANWILKAR, J.
DATED : FEBRUARY 18, 2005

PC :-

. These Revision Applications take exception to the order passed by the Additional Sessions Judge, Gr. Bombay dated 21st February, 1995 in Criminal Appeal Petition Nos. 9 of 1993 and 10 of 1993 respectively. Both these revision applications can be disposed of together.

2. Criminal case was instituted against the applicants being C.C. No. 6068/ML/1989, by the respondent Corporation in the Court of Metropolitan Magistrate, 42nd Court, Shindewadi Dadar, Bombay, for offence punishable under section 394(i) of the Bombay Municipal Corporation Act. In the said proceedings, consent application in writing came to be tendered by the applicants duly signed by them and which signature is not in dispute. That document was filed in the lower court on 27th January, 1993. The same reads thus :-

"Consent

The Court Case No. 6068/ML of 1989 at the Court No. 42 of Hon. Metropolitan Magistrate, Shindewadi, Dadar is defended by the accused by submitting documentary support but the complainant has not submitted his say before the Hon. Court in written.

We submit that denial of License u/s. 394 by M.C.G.B. M/West authority on the basis of Non production of N.O.C. is not proper and after

thought as the Printing Press of the accused is not a Motive Power consumer.

Since we have a documentary support to take up this matter still to avoid the delay & to take the matter at Small Cause Court and through our newspaper if need be, we hereby plead guilty with humble request that we are journalist and busy in cause of the Govt. matter (i.e. Sales Tax & Income Tax) publication and hence Hon. Court may be kind to close this case.

Accused	Signature
Smt. Asha M. Gupta	sd/-
A. Kanakraj	sd/-

Seal
Metropolitan Magistrate,
Bombay."

3. On submitting this application, the applicants were explained the charge before the trial court and

once again they pleaded guilty before the Magistrate, which has been recorded in his order dated 27th January, 1993. As they pleaded guilty, the trial court proceeded to pass the following order:-

" ORDER

Both accused are present -
Charge explained to both accused.
Accused plead guilty.
Plea accepted.
Both accused are convicted u/s. 394(i) B.M.C.Act and sentenced to pay a fine of Rs.800 each accused in default to suffer S.I. for 30 days.

Sd/-Shri D.V.Kamble,
Metropolitan Magistrate,
42nd Court, Shindewadi,Dadar,
Bombay. Dt. 27.1.93 "

4. Against this decision, the applicants carried the matter in appeal before the Sessions Court in M.O. Appeal Nos. 9 and 10 of 1993 respectively, which in

turn have been rejected on 21st February, 1995. The Sessions Court has referred to the position, as it obtained from the record and held that as the applicants had pleaded guilty, it was not open for them to question the order of conviction. The sessions court in its order has further recorded that the applicants did not make any submission on the point of sentence. The sessions court has also recorded, that the applicants are educated and English knowing persons and were fully aware as to consequences of pleading guilty in writing under their signature and accordingly the appeals were dismissed by the sessions court.

5. In these revision applications the fact that the applicants had pleaded guilty is being put in issue. It is not open for this court to record any opinion contrary to the findings which are borne out from the record of the case. The record of the case clearly indicates that the consent in writing, of pleading guilty, was given by the applicants and on that basis the court proceeded in the matter. If it is so, neither the appeals were maintainable nor the present revisions can be entertained on this singular reason.

6. In the circumstances both the applications are dismissed.

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